

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 12TH SEPTEMBER 2007 / 21ST BHADRA 1929

Crl.Rev.Pet.No. 1126 of 2000

CC.12/1993 OF JUDICIAL MAGISTRAE OF FIRST CLASS, PATTAMBI,
CRL.A.106/1995 OF SESSIONS COURT, PALAKKAD.

REVISION PETITIONER/APPELLANT/ACCUSED:

T. HARIDASAN,
S/O. KRISHNAN EZHUTHASSAN,
PUTHIYANAMKUNNU ESTATE,
POOVAKKODU DESOM, NOW RESIDING AT
THODUKATTIL, KAILEYADU.P.O.,
SHORNUR -2.

BY ADV. SRI.P.VIJAYA BHANU,
SMT.P.MAYA.

RESPONDENTS/RESPONDENTS/COMPLAINANT AND STATE:

1. NARAYANAN, S/O. NARAYANAN,
KOZHIKKUNNATHUTHODI,
PUTHEN VEEDU, POOVAKKODU DESOM,
MARUTHUR AMSOM, OTTAPALAM TALUK.
2. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY ADV. SRI.K.C.ELDHO,
PUBLIC PROSECUTOR SRI. AMJATH ALI.

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 12/09/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

ORDER ON CRL.M.P. NO. 5921/2000 IN CRL.R.P. NO. 1126/2000

DISMISSED

12/09/2007.

SD/- K.R.UDAYABHANU, JUDGE.

//TRUE COPY//

prv.

K.R.UDAYABHANU, J

Crl.R.P.No.1126 of 2000

Dated this the 12th day of September, 2007

O R D E R

The revision petitioner is the accused in C.C.No.12/93 who stands convicted for the offence under Section 323 IPC and sentenced to undergo R.I. for three months and to pay a fine of Rs.1,000/-.

2. The prosecution was launched by way of a private complaint. The complainant's case is that on 16.9.1992 at about 5.30 p.m., the third accused came near to his house and called him out to the road. When he came out, the second accused caught hold his left hand and the first accused beat him on his face as a result of which his spectacles were broken and due to the piercing of the glass pieces cornea of his right eye was injured and thereby committed offences under Sections 341 and 325 read with Section 34 IPC. The appellate court convicted the accused for the offence under Section 323 IPC and acquitted for the offence under Section 325 IPC. A2 and A3 were acquitted by the trial court itself.

2. The evidence adduced in the matter consisted of the testimony of PWs' 1 to 5 and Exts. P1 and P2.

3. PW3 is the complainant. Apart from PW3, PW4 and PW5 independent witnesses has also supported the prosecution version. PWs' 1 and 2 are the doctors of Vijayasree hospital, Thrissur. PW1 has stated that PW3 was admitted in the hospital on 16.9.1992 and discharged on 23.9.1992. She has proved Ext. P1 O.P. card wherein she has stated that he had right upper right lid tear and lacerated wound of the cornea. She has stated that she had conducted an operation on the eye on 17.9.1992. PW3 had also undergone an operation which was conducted by PW2, another doctor. He has stated that injury can be caused on account of beating with hands to a person wearing spectacles. PW2 another doctor who conducted the operation that there is a permanent deterioration of the vision. PW3, the injured has testified as to the incident. According to him, the motive was ill will on account of the quarrel with the children of PW1 and A1. PWs' 4 and 5 has fully supported the version of PW3.

4. The contention raised is that it is after about three

months that the complaint has been filed. The explanation of PW3 that he had immediately complained to the police and that the police did not taken any action was found convincing by both the courts below. In view of the direct evidence of PW3 supported by PWs' 4 and 5 as to the incident which stands unimpeached, I find that the delay in lodging the complaint cannot be taken as fatal. In the circumstances, I find no reason to deviate from the concurrent findings of the court below. The conviction is confirmed.

5. Counsel for the revision petitioner has pleaded for leniency pointing out that the incident has taken place in 1992 and more than 15 years have elapsed since the commencement of the proceedings.

6. In the circumstances, the sentence imposed for the offence under Section 323 is modified to imprisonment till the rising of the court and to pay a compensation of Rs.25,000/- to PW3, the complainant and in default, to undergo simple imprisonment for six months. The revision petitioner is granted four months' time to pay the amount of compensation. He shall

appear before the Judicial First Class Magistrate Court, Pattambi
on 11.1.2007 to receive the sentence.

The criminal revision petition is disposed of as above.

**K.R.UDAYABHANU,
JUDGE**

csl